

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

PHILLIP ELWELL,  
Plaintiff(s),

v.

GREGORY HARVEY, et al.,  
Defendant(s).

Case No.: 2:19-cv-01673-APG-NJK

**ORDER**

Pending before the Court is a Stipulated Protective Order, which the Court approved to facilitate discovery in this case. This order reminds counsel that there is a presumption of public access to judicial files and records. A party seeking to file a confidential document under seal must file a motion to seal and must comply with the Ninth Circuit's directives in *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006).

The Court has adopted electronic filing procedures. Attorneys must file documents under seal using the Court's electronic filing procedures. *See* Local Rule IA 10-5. Papers filed with the Court under seal must be accompanied with a concurrently-filed motion for leave to file those documents under seal. *See* Local Rule IA 10-5(a).

The Court has approved the blanket protective order to facilitate discovery exchanges. But **there has been no showing, and the Court has not found, that any specific documents are secret or confidential.** The parties have not provided specific facts supported by declarations or

1 concrete examples to establish that a protective order is required to protect any specific trade secret  
2 or other confidential information pursuant to Rule 26(c) or that disclosure would cause an  
3 identifiable and significant harm. The Ninth Circuit has held that there is a presumption of public  
4 access to judicial files and records, and that parties seeking to maintain the confidentiality of  
5 documents attached to nondispositive motions must show good cause exists to overcome the  
6 presumption of public access. *See Kamakana* 447 F.3d at 1179. Parties seeking to maintain the  
7 secrecy of documents attached to dispositive motions must show compelling reasons sufficient to  
8 overcome the presumption of public access. *Id.* at 1180. **All motions to seal must address the**  
9 **applicable standard and explain why that standard has been met.** The fact that a court has  
10 entered a blanket stipulated protective order and that a party has designated a document as  
11 confidential pursuant to that protective order does not, standing alone, establish sufficient grounds  
12 to seal a filed document. *See Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1133 (9th  
13 Cir. 2003); *see also Beckman Indus., Inc. v. Int'l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992).

14 If the sole ground for a motion to seal is that the opposing party (or non-party) has  
15 designated a document as confidential, the designator shall file (within seven days of the filing of  
16 the motion to seal) either (1) a declaration establishing sufficient justification for sealing each  
17 document at issue or (2) a notice of withdrawal of the designation(s) and consent to unsealing. If  
18 neither filing is made, the Court may order the document(s) unsealed without further notice.

19 **IT IS ORDERED** that counsel shall comply with the requirements of Local Rule IA 10-  
20 5, the Ninth Circuit's decision in *Kamakana*, 447 F.3d 1172, and the procedures outlined above,  
21 with respect to any documents filed under seal. **To the extent any aspect of the stipulated protective**  
22 **order may conflict with this order or Local Rule IA 10-5, that aspect of the stipulated protective**  
23 **order is hereby superseded with this order.**

24 IT IS SO ORDERED.

25 Dated: December 13, 2019

26  
27   
28 Nancy J. Koppe  
United States Magistrate Judge